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February 23, 2023

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Re: *U.S. v. Bowers*, 18-292  
Supplemental Rule 12.2(b)(2) notice

Dear Counsel:

Enclosed is the notice pursuant to Fed. R. Crim. P. 12.2(b)(2) we intend to file today on the public docket. By way of this letter, we are supplementing the notice, providing additional information in excess of that required by Rule 12.2 in order to assist the parties and the Court in determining the limits of the government's rebuttal case.

Specifically, the defense intends to introduce evidence that Mr. Bowers is a person with schizophrenia, epilepsy, and structural and functional impairments of his brain. These are neurodevelopmental conditions that significantly and negatively alter a person's life course, life expectancy, perceptions, beliefs, cognitive behavior, and functioning. These conclusions are based on clinical assessment, interpretation of neuropsychological test data, and neurological and neuroimaging data (CT, MRI, PET, EEG).<sup>1</sup>

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<sup>1</sup> The CT scan was done at Allegheny General Hospital immediately after Mr. Bowers' arrest. The EEG, MRI, and PET scans were performed at local UPMC facilities between November 2021 and January 2022.

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The notice is further supplemented with the following information, which includes the kinds of mental health professionals, areas of expertise and specific nature of testing.

1. Medical doctor - Psychiatrist

This expert has reviewed records, including neurological and neuroimaging records, and has conducted a psychiatric assessment of Mr. Bowers, including clinical interviews and observation of behavior, functioning, and symptom presentation. This expert will explain that Mr. Bowers suffers from schizophrenia and presents with hallmark negative symptoms, thought disorder, and delusions. In addition to explaining how these impairments affected Mr. Bowers' life course, this expert will confirm the existence of non-statutory and statutory mitigating factors, including 18 U.S.C. § 3592(a)(1) ("impaired capacity") and (a)(6) ("disturbance").

2. Neuropsychology and Neurophysiology

This expert has reviewed neuropsychological testing conducted by an expert who is no longer available to offer testimony. The neuropsychological testing did not include personality testing.<sup>2</sup> This expert reviewed the CT, EEG, MRI, and PET data and the interpretations of this data by other experts detailed in this notice. This expert has also reviewed records but has not and will not conduct any interviews or tests of Mr. Bowers. This expert will testify regarding the findings on the neurological and neuropsychological testing and its association with medical and scientific evidence of other people with schizophrenia, epilepsy, and structural and functional brain abnormalities. This expert will create and use a 3-D reconstruction of Mr. Bowers' brain to demonstrate the findings.

3. Medical doctor - Radiologist

This expert has reviewed data from a PET scan of Mr. Bowers' brain and will offer opinions based on quantitative and qualitative analysis of the PET scan and its association with schizophrenia. This expert has also reviewed records but has not and will not conduct any interviews or testing of Mr. Bowers.

4. Medical doctor - Neuroradiologist

This expert has reviewed an MRI scan of Mr. Bowers' brain and will offer opinions based on quantitative and qualitative analysis of the MRI scan. This expert has reviewed records but has not and will not conduct any interviews of Mr. Bowers and has not and will not administer any testing but has reviewed the work of other experts detailed in this notice.

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<sup>2</sup> The list of the neuropsychological tests administered are attached to this letter.

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5. Medical doctor - Neurologist

This expert has conducted a clinical neurological assessment of Mr. Bowers, which includes a standard neurological physical examination of motor functioning, visual and sensory abilities, and reflexes. This expert has not and will not administer personality, psychological or neuropsychological testing, but has reviewed the work of other experts detailed in this notice. In addition to offering opinions based on relevant records and the physical neurological exam, this expert will offer opinions on the EEG, MRI, and PET scans. This expert will also offer opinions as to the diagnoses described above.

6. Psychologist

This psychologist has reviewed relevant records and interviewed collateral and historical witnesses, including prior treating professionals, teachers, family members, and other individuals with direct knowledge of Mr. Bowers. This expert will not conduct any interviews of Mr. Bowers and will not administer any testing, including personality or psychological testing.

This expert will not offer a diagnosis of Mr. Bowers but will explain symptoms and patterns of functioning and behavior which are observed throughout his life based on records and interviews of collateral witnesses. This will include developing and potentially presenting a multigenerational, bio-psychosocial history, including a focus on adverse childhood experiences and risk factors for serious mental illness, and in that sense, will explain how family and social experiences shape a person in the present.

Sincerely,

/s/

Judy Clarke

Michael Burt

Michael Novara

Elisa Long

Encl: Rule 12.2(b)(2) Notice (filed publicly)  
list of neuropsychological tests

cc: Chambers of Judge Robert J. Colville

## Bowers Neuropsychology Test List

Wechsler Test of Adult Reading  
Wechsler Adult Intelligence Scale-IV  
Woodcock Johnson Tests of Achievement-III  
Gordon Diagnostic Systems Continuous Performance Test  
Paced Auditory Serial Addition Test-200  
Trail Making Test  
Cognitive Estimation Test  
Stroop Color-Word Test  
Wisconsin Card Sorting Test  
Tower of London-2  
Luria Sequential Hand Movements  
California Verbal Learning Test-II  
Wechsler Memory Scale-IV  
Auditory Consonant Trigrams  
Brief Visuospatial Memory Test-Revised  
Continuous Visual Memory Test  
Rey-Osterrieth Complex Figure Test  
Recognition Memory Test  
BDAE Comprehension of Complex Ideation Material  
Boston Naming Test  
Phonemic Fluency (FAS)  
Semantic Fluency (Animals)  
Benton Sentence Repetition  
Benton Right-Left Orientation  
BDAE Reading Sentences and Paragraphs  
BDAE Cookie Theft  
Judgment of Line Orientation  
Benton Facial Recognition Test  
Lateral Dominance Exam  
Double-Simultaneous Stimulation  
Finger-tip Number Writing  
Tactile Finger Recognition  
Grooved Pegboard  
Finger Tapping  
Grip Strength  
TOMM  
Word Memory Test  
Dot Counting Test  
Rey 15-Item Test